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Situation of human rights in Myanmar

Report of the Secretary-General

Summary

The present report is submitted pursuant to paragraph 6 of General Assembly resolution 63/245 and covers the period from 25 August 2008 to 25 August 2009. During that period, I visited Myanmar on 3 and 4 July 2009 at the invitation of the Government. In addition, my Special Adviser, Ibrahim Gambari, visited Myanmar three times at the invitation of the Government, from 31 January to 3 February and on 26 and 27 June, and accompanied me on 3 and 4 July 2009.

In all discussions, I, as well as my Special Adviser, continued the good offices efforts to promote national reconciliation, democratic transition and respect for human rights in Myanmar, in accordance with the relevant General Assembly resolutions. Discussions focused on five key areas, as endorsed by the Group of Friends of the Secretary-General on Myanmar and in the Security Council: (a) the release of all political prisoners, including Daw Aung San Suu Kyi; (b) the need for an all-inclusive, substantive and time-bound dialogue; (c) the need to create conditions conducive to a credible process of political transition to civilian and democratic government; (d) improving socio-economic conditions; and (e) regularizing the good offices process between Myanmar and the United Nations.

The Government of Myanmar enacted two prisoner amnesties during the reporting period, announcing that it had released 9,002 prisoners in September 2008 and 6,313 prisoners in February 2009. These amnesties applied to several political prisoners whose releases were urged during my Special Adviser's visits to Myanmar. During the reporting period, however, the Government also imposed lengthy prison terms on individuals connected to the protests of 2007.

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On 14 May 2009, the General Secretary of the National League for Democracy (NLD), Daw Aung San Suu Kyi, was charged with violating the terms of her house arrest, based on the intrusion of an American national on her property, from 3 to 5 May. Daw Aung San Suu Kyi pleaded not guilty to the charges, maintaining that she had not broken the law. She was sentenced on 11 August 2009 to three years of hard labour, a sentence that was commuted immediately by the Government to 18 months of house arrest. On the same day, I issued a statement deploring the verdict and reiterating that unless all political prisoners in Myanmar were released and allowed to participate in free and fair elections, the credibility of the political process would remain in doubt.

The Government of Myanmar expressed its determination to proceed with multiparty elections by 2010, the fifth step in its seven-step road map to democratic government. Several key stakeholders, including NLD and some ethnic groups, object to the new constitution and the process by which it was adopted, and reserve their position on participating in the planned election. I continue to emphasize that only a credible and inclusive political process, based on mutual understanding and constructive compromise by all stakeholders, can advance the prospects of durable peace, national reconciliation, democracy and respect for human rights in Myanmar, and that the Government has a primary obligation to address the concerns of all stakeholders. I also emphasize that failure to address with equal attention the nation's political, humanitarian and development challenges could undermine the prospects for peace, democracy and development.

I welcome the broad support of the international community for my personal engagement, the role of my Special Adviser and the continuation of my good offices mission. I look forward to working with all concerned, including through my Group of Friends on Myanmar, towards a peaceful, united, democratic Myanmar with full respect for the human rights of all of its people.

I. Introduction

1. The present report is submitted pursuant to paragraph 6 of General Assembly resolution 63/245, in which the Assembly requested me, inter alia, to continue to provide my good offices and to pursue discussions on the situation of human rights, the transition to democracy and the national reconciliation process with the Government and the people of Myanmar, including democracy and human rights groups and all relevant parties, and to offer technical assistance to the Government in this regard, and to report to the General Assembly at its sixty-fourth session as well as to the Human Rights Council on the progress made in the implementation of the resolution. The report focuses on the good offices dimension of the resolution, covering the period since my previous report (A/63/356), from 25 August 2008 to 25 August 2009.

II. Key developments

2. Immediately prior to the present reporting period, my Special Adviser visited Myanmar from 18 to 23 August 2008. During that and earlier visits, he sought progress on the five-point agenda endorsed by the Group of Friends of the Secretary-General on Myanmar and in the Security Council: (a) the release of all political prisoners, including Daw Aung San Suu Kyi; (b) the need for an all-inclusive, substantive and time-bound dialogue; (c) the need for an all-inclusive and credible process of political transition to civilian and democratic government; (d) avenues for improving socio-economic conditions; and (e) regularizing the good offices process. In letters dated 2, 10 and 23 September 2008, the Government of Myanmar informed my Special Adviser of its proposals to Daw Aung San Suu Kyi to arrange a meeting between her and the Minister for Relations and of her response that she wished to meet with the Minister but not at that time. The Government further wrote that the Myanmar authorities were committed to the policy of national reconciliation and were willing to pursue continued dialogue with Daw Aung San Suu Kyi. On 23 September, the Government announced the release of several political prisoners as part of a broader amnesty. The prisoners included a number of individuals whose release had been urged by my Special Adviser, including the nation's longest serving political prisoner, U Win Tin. On 24 September, I welcomed the releases and urged further releases.

3. On 27 September, I convened and chaired the first high-level meeting of the Group of Friends on Myanmar and, for the first time, issued a press statement summarizing areas of consensus among members of the Group, including (a) providing strong support for my good offices and the work of my Special Adviser; (b) encouraging the Government of Myanmar to work more closely with the good offices process to address key issues of concern to the international community, especially the release of political prisoners, including Daw Aung San Suu Kyi, and the initiation of an all-inclusive dialogue; and (c) encouraging all parties in Myanmar to seize the opportunity provided by the good offices process, while stressing the responsibility of the Government of Myanmar to demonstrate its stated commitment to cooperation through further tangible results.

4. Between September and December 2008, some 400 persons arrested in connection with the demonstrations of August-September 2007 were sentenced to prison terms of between 24 and 65 years for non-violent offences. On 22 October,

my Special Adviser briefed the Third Committee of the General Assembly on the situation in Myanmar and reported, inter alia, that meaningful steps were still awaited from the Myanmar authorities in response to the concerns of the international community, including those regarding the release of political prisoners. On 12 November, I issued a statement expressing my deep concern over the severe prison terms and reiterating my call for all political prisoners to be released as part of an inclusive national reconciliation process.

5. From 31 January to 3 February 2009, my Special Adviser visited Myanmar at the invitation of the Government. He met with Government officials, including the Prime Minister, General Thein Sein, the Ministers of Foreign Affairs, Information, Culture, National Planning and Economic Development, Agriculture and Irrigation, and the Labour Minister in his capacity as Minister for Relations with Daw Aung San Suu Kyi. Separately, my Special Adviser met again with the General Secretary of NLD, Daw Aung San Suu Kyi. At the request of the Special Adviser, Daw Aung San Suu Kyi was permitted for the first time since January 2008 to meet with members of the Central Executive Committee of NLD, including its Chairman, U Aung Shwe. For the first time, the Special Adviser was also able to meet together with both Daw Aung San Suu Kyi and those NLD officials. The Special Adviser also met with other political parties, including the National Unity Party (NUP) and the Shan Nationalities League for Democracy (SNLD). In addition, my Special Adviser visited cyclone-affected areas and met with the Tripartite Core Group established for the coordination of cyclone recovery efforts, the diplomatic corps and the United Nations country team.

6. On 5 February, I issued a statement calling for the resumption of substantive dialogue without preconditions and expressing my willingness to build on my Special Adviser's visits to promote national dialogue and reconciliation through my good offices.

7. On 19 February, the President of the General Assembly issued a statement echoing my call and urging the Government to deliver tangible results in response to the specific suggestions made by my Special Adviser.

8. On 20 February, the United Nationalities Alliance issued a statement rejecting the planned 2010 elections and calling for a tripartite dialogue, the release of political prisoners and a revision of the Constitution. On 26 April, the Karen National Union issued a statement in which it, inter alia, rejected the Government's planned 2010 elections, the Constitution and the manner in which it was adopted.

9. From 14 to 19 February, the Special Rapporteur on the situation of human rights in Myanmar, Tomás Ojea Quintana, made his second visit to Myanmar at the invitation of the Government. He met with key relevant Government interlocutors, visited Kayin State, met armed groups, and visited inmates at Hpa-an and Insein prisons. He continued to urge the Government to implement four core human rights elements prior to the 2010 elections: reviewing national legislation in accordance with the new Constitution and international obligations; releasing political prisoners; training in human rights and humanitarian law for the armed forces; and establishing an independent and impartial judiciary. On 11 March, the Special Rapporteur, pursuant to Human Rights Council resolution 8/14, presented his report to the Human Rights Council (A/HRC/10/19). On 27 March, the Human Rights Council passed resolution 10/27 on the situation of human rights in Myanmar, in which, inter alia, it extended the mandate of the Special Rapporteur for one year.

10. On 14 May, Daw Aung San Suu Kyi was taken from her home in Yangon, where she had been held under house arrest since 2003, and put on trial on charges of violating the terms of her house arrest following the intrusion in her house of an American national, John Yettaw, from 3 to 5 May. Her two housemaids were also charged, as was Mr. Yettaw. The Government invited the diplomatic corps to attend the trial proceedings on six occasions, including at the reading of the verdict, and arranged for diplomats from the Russian Federation, Singapore and Thailand to meet once with Daw Aung San Suu Kyi at her place of custody. On 26 May, the Government lifted the house arrest order for Daw Aung San Suu Kyi while holding her in custody for the duration of her trial. The court heard testimony from 23 prosecution witnesses and two defence witnesses, with Daw Aung San Suu Kyi maintaining that she had not broken any law.

11. On 14 May, I issued a statement expressing my grave concern about the arrest of Daw Aung San Suu Kyi, calling her an essential partner for dialogue in the process of national reconciliation, urging the Government not to take any further action that could undermine that process, and reiterating my strong belief that Daw Aung San Suu Kyi and all those who have a contribution to make to the future of their country must be free to do so to ensure that the political process is credible.

12. On 14 and 15 May, respectively, the Special Rapporteur and the United Nations High Commissioner for Human Rights issued statements calling for the immediate release of Daw Aung San Suu Kyi, stating that her continued detention violated national and international law. On 16 June, five special rapporteurs issued a joint statement, stating that the trial had been marred by flagrant violations of substantive and procedural rights and citing opinion No. 46/2008 of the Working Group on Arbitrary Detention that the detention of Daw Aung San Suu Kyi beyond 27 May 2008 violated Myanmar's own laws.

13. On 22 May, the Security Council issued a press statement expressing its concern about the political impact of recent developments relating to Daw Aung San Suu Kyi, reaffirming its Presidential statements of 11 October 2007 and 2 May 2008 and reiterating the importance of the release of all political prisoners. The Security Council reiterated also the need for the Government of Myanmar to create the necessary conditions for a genuine dialogue with Daw Aung San Suu Kyi and all concerned parties and ethnic groups in order to achieve an inclusive national reconciliation with the support of the United Nations, and affirmed its commitment to the sovereignty and territorial integrity of Myanmar.

14. On 9 June, the Office of the United Nations High Commissioner for Refugees reported an influx of approximately 3,000 refugees from Myanmar into Thailand, coinciding with reports of renewed fighting in eastern border areas.

15. On 26 and 27 June, my Special Adviser visited Myanmar at the invitation of the Government and at my instruction to prepare for my possible return visit to Myanmar. My Special Adviser met twice with the Minister of Foreign Affairs, and also met with the United Nations country team and the dean of the diplomatic corps.

16. On 3 and 4 July, I visited Myanmar for the second time in just over one year at the invitation of the Government. I met twice with the Chairman of the State Peace and Development Council (SPDC), Senior General Than Shwe, together with the SPDC Vice-Chairman, Vice-Senior General Maung Aye, SPDC member General Thura Shwe Mann, the Prime Minister, General Thein Sein, the SPDC Secretary-1,

General Thiha Thura Tin Aung Myint Oo, and the Minister for Foreign Affairs U Nyan Win. I held a working dinner with the Prime Minister, along with other key ministers. I held meetings with representatives of all 10 registered political parties, including those representing ethnic constituencies, as well as NLD, with whom I also met separately. I also met with representatives of seven ceasefire groups. I visited rehabilitation projects in the area affected by Cyclone Nargis and heard a briefing by the Tripartite Core Group. I also gave the first keynote public address of its kind to an audience of several hundred persons in Yangon, including government ministers, diplomats, and representatives of national and international non-governmental organizations and local civil society and community-based organizations. I also met separately with the United Nations country team and United Nations staff.

17. On 8 July, my Special Adviser briefed the Group of Friends on my visit to Myanmar. On 13 July, I briefed the Security Council, at its request, on my visit.

18. On 13 July, the 88 Generation students' group, the All Burma Monks' Alliance and the All Burma Federation of Student Unions issued an open letter to me, supporting my work and calling on me to redouble my efforts. On 7 August, the Movement for Democracy and Rights of Ethnic Nationalities announced a "Proposal for National Reconciliation Towards Democracy and Development in Burma".

19. On 11 August, the court rendered a guilty verdict against Daw Aung San Suu Kyi and sentenced her to three years of hard labour. The Government immediately commuted the sentence to 18 months of house arrest. On the same day, I issued a statement deploring the verdict and urging the Government to immediately and unconditionally release Daw Aung San Suu Kyi as an essential partner for political dialogue, reiterating that unless she and all other political prisoners in Myanmar were released and allowed to participate in free and fair elections, the credibility of the political process would remain in doubt. Statements were also issued by many Member States, including countries in the region. Mr. Yettaw, who was sentenced to seven years of hard labour, was deported on humanitarian grounds on 16 August.

20. In a press statement issued on 13 August, the Security Council reaffirmed its statements of 11 October 2007, 2 May 2008 and 22 May 2009 on Myanmar, and reiterated the importance of the release of all political prisoners, expressed serious concern at the conviction and sentencing of Daw Aung San Suu Kyi and its political impact, noted the decision of the Government of Myanmar to reduce her sentence and urged it to take further measures to create the necessary conditions for a genuine dialogue with her and all concerned parties and ethnic groups in order to achieve an inclusive national reconciliation. The Security Council reiterated also its support for my good offices role and affirmed its commitment to the sovereignty and territorial integrity of Myanmar.

21. In parallel with my engagement and that of my Special Adviser with the Government and other relevant parties in Myanmar, consultations continued with key interested Member States. In addition to the first high-level meeting of my Group of Friends on Myanmar on 27 September 2009, and my Special Adviser's briefings to the Group on 12 September 2008 and 8 July 2009, I convened and chaired three other meetings of the Group on 5 December 2008, and 23 February and 5 August 2009. My Special Adviser briefed the President of the General Assembly on 4 September 2008 and 19 February 2009 and, at its request, the Security Council on 11 September 2008 and 20 February 2009. Separately, the

Special Adviser also held consultations with Government counterparts in Bangkok, Beijing, New Delhi, Singapore and Tokyo. Finally, my Special Adviser continued to engage closely with relevant United Nations bodies and offices on the five-point agenda, including the Office of the United Nations High Commissioner for Human Rights, the Office of the United Nations High Commissioner for Refugees and the Economic and Social Commission for Asia and the Pacific.

III. Content and outcome of discussions

22. During his visit to Myanmar from 31 January to 3 February 2009, my Special Adviser emphasized the opportunity for the Government to send positive signals to the international community by taking concrete steps on the five-point agenda in order to enable all key interested Member States to respond accordingly. The Prime Minister reaffirmed that the Government would pursue the points that it could implement. Daw Aung San Suu Kyi and NLD confirmed their acceptance of four of the points, with the exception then of any discussion of elections.

23. In discussions with the Government, my Special Adviser suggested a review of the recent sentencing of individuals in connection with the demonstrations of August-September 2007. The Government explained that this could only be done through the legal appeal channels. The Special Adviser also raised the cases of individuals who could contribute to the political process and whose release on compassionate grounds should be considered. On the part of Daw Aung San Suu Kyi and NLD, the release of all political prisoners and respect for the rule of law remained their primary demand. Subsequently, in a letter dated 23 February addressed to my Special Adviser, the Government informed him that, in follow-up to his visit, 6,313 prisoners had been given amnesty, including some 20 political prisoners whose cases had been discussed during the visit. On 23 February, I issued a statement welcoming the release and urging further releases.

24. The Special Adviser proposed a three-way meeting of the Liaison Minister, Daw Aung San Suu Kyi and himself. Despite the agreement of Daw Aung San Suu Kyi, the Government's decision was to give first priority to building more understanding between the Liaison Minister and Daw Aung San Suu Kyi. The Government reiterated that the door was open to Daw Aung San Suu Kyi, while noting that its attempts to resume dialogue had been rejected by her on two occasions following the Special Adviser's previous visit. The Government noted that Daw Aung San Suu Kyi had not responded to the invitation made by Senior General Than Shwe on 4 October 2007 to personally meet with her if she gave up "her policy of confrontation, utter devastation and sanctions". Daw Aung San Suu Kyi noted that it was the Government which had interrupted the dialogue in February 2008 and reiterated her view that the Liaison Minister did not have sufficient authority to engage meaningfully in dialogue. In that regard, the Special Adviser again encouraged the Government to (a) raise the level of the Government interlocutor with Daw Aung San Suu Kyi, and (b) give further consideration to the proposal made by Daw Aung San Suu Kyi in March 2008 to issue a joint statement of commitment between her and the Government to work together in the national interest with a view to creating conditions conducive to the lifting of sanctions against Myanmar. Subsequently, on 24 February 2009, NLD issued a correction to its special statement No. 2/02/09, in which it stated that:

> "... the issues of 'confrontation', 'utter devastation', 'economic sanction' and 'embargo' are mentioned in paragraph 7 of Statement No. 1/2007 as not beneficial for the country and its people. For that reason, Daw Aung San Suu Kyi had already informed the authorities through the Minister for Relations, that she is ready to cooperate to avoid these matters and to issue statements reached by both sides. Therefore it is declared once again that NLD requests with sincere intention that the two leaders who can make decisions regarding these matters shall unavoidably and practically hold [a] dialogue immediately".

25. The Special Adviser stressed the need for the Government to create conditions conducive to a credible and inclusive process leading to any elections and made specific suggestions to that end, including the possibility of a constitutional review. The Government ruled out a constitutional review, while reiterating its determination to proceed with planned multiparty elections in 2010 as the fifth step in its seven-step road map. The Prime Minister assured the Special Adviser that, once the election laws were adopted, all political parties, including those opposed to the Constitution or to the Government, would be able to participate, and that elections would be held in accordance with international standards. Asked by the Government about the type of electoral assistance that the United Nations could provide, the Special Adviser responded that consideration of any assistance would be based on (a) a formal request from the Government and (b) broad consultations with all stakeholders. The Government responded that, once established, the Electoral Commission would contact the United Nations if there was a requirement for technical assistance. Daw Aung San Suu Kyi and NLD reiterated their rejection of the Constitution and the referendum by which it was adopted and their demand for an inclusive review of the Constitution before discussing elections. At the same time, NLD requested the re-registration of all de-registered political parties and the reopening of its offices throughout the country. The Special Adviser conveyed these requests, with his endorsement, to the authorities.

26. The Special Adviser stressed the positive implications of establishing a broad-based national forum on socio-economic issues. The Government remained non-committal on the proposal while reiterating its demand that sanctions against Myanmar be lifted. At the same time, the Minister of National Planning and Economic Development identified the agricultural, fishery and livestock sectors as priority areas for possible cooperation. Daw Aung San Suu Kyi and NLD expressed interest in principle in a "national economic forum", while seeking further clarification. In a letter dated 19 June 2009 addressed to the Minister of National Planning and Economic Development, and consistent with the invitation extended by the Government, my Special Adviser followed up on the offer he made during his visit to dispatch a working-level mission to Myanmar to discuss the Government's proposed sectoral approach in relation to the national economic forum.

27. Separately, the Special Adviser encouraged the Government to agree to any decision by the Association of Southeast Asian Nations (ASEAN) to extend the mandate of the Tripartite Core Group beyond June 2009 to ensure the effective implementation of the Post-Nargis Recovery and Preparedness Plan. The Government stated that it would take into account the Special Adviser's recommendation. On 27 February, ASEAN Foreign Ministers agreed to extend the mandate of the Tripartite Core Group until July 2010.

28. The Government reiterated its willingness to continue to cooperate with my good offices efforts and invited my Special Adviser's staff to apply for visas to visit Myanmar for specific purposes.

29. At my request, the Special Adviser discussed the possibility of my return visit to Myanmar to address a broad range of issues with the Government and other stakeholders. The Prime Minister in principle welcomed such a visit, depending on the time and the situation. Daw Aung San Suu Kyi and NLD also welcomed such a visit in principle, while stressing the need for all political prisoners to be released.

30. On 29 April, following its first meeting of countrywide representatives since 1997, NLD issued the "Shwegondaing Declaration", in which it reiterated its position on the Government's political road map and called for the unconditional release of all political prisoners; a review of the constitution, the reopening of all NLD offices and those of ethnic nationality parties; recognition "in some way" of the 1990 election results; and a political dialogue. The Declaration further provided that:

> "If SPDC unilaterally [holds the] possible upcoming election [according to its] own plan and if: (1) all the political prisoners, including the leaders of NLD, were unconditionally released, (2) the provisions of the (2008) constitution which are not in accord with the democratic principle were amended [and] (3) all-inclusive and fair general elections were held under international supervision, NLD, through this Shwegondaing Declaration, states that, anticipating [that the election will] benefit the [people as a whole], it intends to participate in the elections only after gravely considering [it] a special case and after studying the coming Party registration Act and the Laws relating to Elections."

31. My Special Adviser visited Myanmar on 26 and 27 June to prepare for my possible visit. During this visit, the Foreign Minister conveyed his Government's agreement to the agenda as including the five-point agenda and humanitarian issues. The Foreign Minister indicated that some progress on the agenda could be expected, but was not in a position to make any commitments in advance. The Foreign Minister conveyed his Government's agreement to the programme proposed by my Special Adviser, except for a meeting with Daw Aug San Suu Kyi. On this point, the Foreign Minister noted that such a meeting might be difficult to arrange owing to her ongoing trial, but advised that I should make this request directly to the Senior General.

32. During my visit on 3 and 4 July, I addressed a broad range of issues of concern with the senior leadership and other interlocutors. In my two meetings with the Chairman of SPDC, Senior General Than Shwe and consultations with the Prime Minister, General Thein Sein, I had frank and extensive discussions on the need for Myanmar to seize the opportunity of my visit to take meaningful positive steps on the five-point agenda and in the humanitarian area. I noted that I had consulted with key interested Member States, including all members of my Group of Friends on Myanmar, who had reiterated their strong support for my personal engagement, expressed an unprecedented degree of goodwill towards Myanmar, and were now watching closely for positive signals from Myanmar in order to be able to respond accordingly. I made it clear that the purpose of my visit was to convey the concerns, expectations and encouragement of the international community and to extend the

assistance of the United Nations to the Government and people of Myanmar in addressing the challenges facing their country.

33. I commended the Government for the progress made in the relief and recovery efforts following Cyclone Nargis, including through the cooperation with the United Nations and ASEAN in the Tripartite Core Group. Expressing my commitment to continue to mobilize international humanitarian assistance, I stressed the need to build on such cooperation, including by ensuring the timely issuance of humanitarian visas and by expanding humanitarian access so that all vulnerable groups throughout the country can be reached without restriction.

34. I noted that peace and security could be affected by underlying socio-economic conditions and emphasized the necessity of finding ways to address development challenges. Noting that the volume of international assistance to Myanmar was very low, I offered to work with all concerned, including on the question of sanctions and restrictions on the work of international financial institutions and the United Nations Development Programme. I invited the senior leadership to step up Myanmar's cooperation with the United Nations in the context of my good offices with a view to identifying and addressing socio-economic needs through a broad-based national process that involves all sectors of society.

35. I reiterated that the democratic transition of Myanmar could not be completed without genuine national reconciliation. I focused on three concerns which, if left unaddressed, could in my view undermine any confidence in the nation's political process, and strongly encouraged the senior leadership to consider positively my specific recommendations. First, I recommended the immediate release of a significant number of political prisoners, including Daw Aung San Suu Kyi, and of all remaining political prisoners by election time, in order to allow them to participate in the political process. I underscored the importance for the Government to consider carefully the implications of Daw Aung San Suu Kyi's trial and its outcome, and strongly recommended that the Government consider exercising its executive prerogative to ensure that all charges against Daw Aung San Suu Kyi be dropped and that she be immediately released. Second, I recommended the commencement, without delay or preconditions, of an all-inclusive, substantive and time-bound dialogue that included Daw Aung San Suu Kyi and NLD, with the support of the United Nations. I also emphasized the need to ensure that any gains achieved through ceasefire agreements be made irreversible by accommodating the concerns of all relevant armed groups. Third, I highlighted the need for the Government's road map, including the planned elections in 2010, to be implemented in an inclusive, participatory and transparent manner so as to gain domestic and international acceptance of the process and its outcome as credible and legitimate. In that regard, I recommended the early announcement of a date for the planned elections, the timely publication of sound election laws, the establishment of an independent electoral commission, the reopening of all NLD offices, and the re-registration of de-registered political parties. I also enquired whether the Government was considering inviting independent electoral observers or requesting technical electoral assistance from the United Nations.

36. I encouraged the senior leadership to consider the establishment of a small presence in Yangon, reporting to me through my Special Adviser, for purposes of liaison and facilitation of communication in the run-up to the elections. I also invited Myanmar to participate for the first time in a meeting of my Group of

Friends to be held at the ministerial level at the margins of the General Assembly in New York in September 2009.

37. I indicated that I looked forward to discussing the above-mentioned issues with as many stakeholders as possible during my visit, including with Daw Aung San Suu Kyi. I strongly encouraged the Senior General to positively consider my request to meet with her and to give careful consideration to the implications of any decision on the matter.

38. The Senior General stated that, as a Member State of the United Nations, Myanmar attached great importance to my visit and to its continued cooperation with the Organization, and expressed its thanks to me for the assistance provided by the United Nations following Cyclone Nargis. The Senior General said that Myanmar recognized that I had consulted with several Member States prior to my visit. Noting that my proposals had been discussed in the course of my Special Adviser's visits, the Senior General did not reject any of my substantive recommendations.

39. The Senior General noted that sanctions against Myanmar had negatively affected the country's development and its ability to deliver on outside demands, and that the international community should express goodwill towards Myanmar in this regard.

40. The Senior General highlighted the two most important current priorities of the Government: the handing over of State power to a civilian Government after the 2010 elections and the laying of the foundation for future social and economic development. The Senior General declared that there should be no doubt about the Government's determination to hold multiparty elections in 2010, and repeatedly stressed that elections would be free, fair, credible and arranged so as to ensure the participation of all. He noted that setting a date for the elections, issuing electoral legislation and establishing an electoral commission were internal matters on which announcements would be made in due course. The question of whether Myanmar might seek United Nations electoral assistance or invite independent observers would be considered in due time, if necessary.

41. The Senior General emphasized the importance of upholding the sovereignty, national unity and territorial integrity of Myanmar. He highlighted the fact that, while some insurgent groups remained, 17 armed groups had made peace with the Government and were concentrating on regional development.

42. The Senior General described past efforts, including his own, in trying to engage directly with Daw Aung San Suu Kyi with a view to including her in the Government's national reconciliation process. He stressed that while such efforts had been unsuccessful, it was not due to a lack of willingness on the part of the Government. He reiterated that the Government's priority at present was to remain focused on the election and the political transition. The Senior General explained that he would have liked to arrange a meeting between Daw Aung San Suu Kyi and myself as requested, but that the judicial process would not allow it as it might be seen to influence the outcome of the ongoing trial.

43. In my meeting with registered political parties, I heard a range of views and concerns, including those of NLD, SNLD, NUP and the Wa National Development Party. SNLD reiterated its demand for the release of all political prisoners, including detained ethnic leaders, and the resumption of an all-inclusive dialogue as

conditions for its participation in elections. NUP reiterated its call on all parties to work towards the success of the 2010 elections and its view that no single party should undermine the seven-step road map. In my separate private meeting with NLD, the League reiterated its demands for the release of all political prisoners, including Daw Aung San Suu Kyi; a dialogue for national reconciliation; resolution, "in any way", of the result of the 1990 election; and a review of the Constitution. NLD explained that it had made proposals to the Government in regard to these demands but that the authorities had not yet responded. In my meeting with ceasefire groups, I heard of their experience in transitioning from armed conflict to ceasefire, the need for development of their regions and their consideration of the Government's proposal to become a border guard force, under the command of the Myanmar Army. In all meetings, I indicated that I had emphasized with the Senior General the need for the political process to be responsive to the legitimate concerns of all stakeholders and that the Senior General had repeatedly indicated that the elections would be free and fair and open to the participation of all parties and groups. I also strongly encouraged all political parties and armed groups to remain constructive in their positions on the political process and in the implementation of ceasefire agreements.

44. Upon being briefed on the outcome of my visit on 8 and 13 July, respectively, members of my Group of Friends and of the Security Council expressed unanimous support for my decision to visit Myanmar, for my personal engagement and the role of my Special Adviser, and for the continuation of my good offices mission. They reiterated their expectation that Myanmar would follow up positively on the recommendations which I had made. Addressing the Security Council, the Permanent Representative of Myanmar to the United Nations announced that his Government viewed my visit as successful and intended to implement all appropriate recommendations. The Permanent Representative stated that, at my request, the Government was preparing to grant amnesty to prisoners on humanitarian grounds and with a view to enabling them to participate in the 2010 elections. The Permanent Representative also stated that, with regard to the national economic forum, the Government would cooperate with the United Nations in the agricultural, livestock and fishery sectors. Regarding the possibility of technical assistance in the elections, Myanmar would cooperate with the United Nations if such assistance were necessary. He reiterated that electoral legislation would be enacted in due time. The Permanent Representative stated that the acceptance by Myanmar of my good offices role and its active cooperation in the process, as well as my second visit to Myanmar in just over one year, were important milestones of cooperation between Myanmar and the United Nations.

45. In a statement dated 9 July and in a letter dated 15 July addressed to me, the Chairman of NLD, U Aung Shwe, presented the programme of NLD for the future, as follows:

(a) Unconditional release of all political prisoners, including U Tin Oo and Daw Aung San Suu Kyi;

(b) Urgently holding the dialogue without preconditions, based on the principles of mutual respect and national reconciliation; the items of the dialogue shall include human rights, equality of opportunities for all nationalities, review of the Constitution (2008), recognition in any way of the People's Parliament which is

the result of the 1990 election, the election of the future and the amelioration of the current living conditions of the people;

(c) Arranging to recognize the result of the 1990 elections by approving the result of the dialogues at the People's Parliament which is to be formed according to the People's Parliament Election Law;

(d) All stakeholders are to follow unitedly the political course for the future delineated by the agreements of the dialogue, as adopted by the People's Parliament for the establishment of the new democratic State.

With regard to the planned 2010 elections, the letter reiterated the NLD position expressed in the Shwegondaing Declaration of 29 April, noting that, based on the experience of the 2008 constitutional referendum, NLD had "grave apprehensions regarding the transparency and fairness of the planned elections" and that if elections were held without meeting the conditions spelled out in the Shwegondaing Declaration, "they will be illegitimate and their result will not be able to resolve the existing political problems". The letter further encouraged me to continue my efforts.

46. In a letter dated 17 July 2009 addressed to my Special Adviser, the Minister of National Planning and Economic Development confirmed that Myanmar would consider the possibility of accepting a working-level mission, as proposed by my Special Adviser.

47. Following my meeting with the Group of Friends on 5 August, I publicly reiterated my expectation, and that of the international community, that the Government of Myanmar would give careful consideration to the implications of any verdict in the trial of Daw Aung San Suu Kyi and use the opportunity to ensure her immediate release, and that the Government of Myanmar would take timely and positive steps in follow-up to the specific proposals I had made during my visit, starting with the release of all political prisoners. I called for continued constructive engagement to help the Government and people of Myanmar address the challenges and opportunities facing the country and for the active and united support of the international community to that end. The members of the Group agreed to my proposal to convene a second high-level meeting of the Group of Friends at the margins of the General Assembly in September 2009.

48. In consultations held throughout the reporting period, including in the Group of Friends, I, along with my Special Adviser, invited key interested Member States to consider ways in which to further encourage Myanmar to cooperate more closely with the good offices process in the implementation of the five-point agenda, and to equip the good offices mission with adequate tools in that regard.

49. In addition to the support expressed by the members of the Group of Friends and of the Security Council for my personal engagement, the continuation of my good offices mission and the role of my Special Adviser, similar support was also expressed by the leaders of the Group of Eight at their summit meeting held in L'Aquila, Italy, on 8 July, and by the Foreign Ministers of ASEAN and the ASEAN Regional Forum at their meetings in Phuket, Thailand, from 20 to 23 July. The latter, inter alia, reaffirmed their view that the United Nations has a crucial role to play in the process of national reconciliation as well as economic and social development in Myanmar, expressed their willingness to continue to engage constructively with and contribute to the economic and social development of

Myanmar and encouraged its Government to make concrete and credible progress towards democratization.

IV. Observations

50. In the coming year, Myanmar stands at an important juncture in its political transition process, as the Government prepares for the first elections in 20 years. This juncture, while likely to be fluid and challenging, also potentially offers important opportunities to promote change towards a peaceful, democratic, prosperous and united Myanmar. It also coincides with a renewed reflection among the international community about the effectiveness of current policies towards Myanmar and a search for more effective ones. My second visit in just over one year thus offered an opportunity to convey to the Government and people of Myanmar the concerns, expectations and encouragements of the international community, and extend the support of the United Nations to addressing the multiple challenges facing the country.

51. As the Government of Myanmar continues to implement its political road map process, it is important to encourage it to take the necessary steps to maximize the opportunities that such a transition may offer in addressing short, medium and long-term challenges facing the country and improving Myanmar's relations with the international community at large. In this context, I am disappointed and concerned that meaningful steps have yet to be taken by the Myanmar Government in follow-up to his visit. Of deepest concern is the trial and sentencing of Daw Aung San Suu Kyi, despite the commutation of her sentence by the Government. These developments are a serious setback to the prospects of genuine national reconciliation, democratic transition and the rule of law in Myanmar and contradict the Government's own commitments in this regard. The Government's failure to release Daw Aung San Suu Kyi is a missed opportunity for Myanmar to signal its commitment to a new era of political openness.

52. I believe that unless three immediate concerns are addressed, the credibility of the political process will remain in doubt: the release of all political prisoners, including Daw Aung San Suu Kyi, and their free participation in the political life of their country; the commencement of dialogue between the Government and opposition and ethnic stakeholders as a necessary part of any national reconciliation process; and the creation of conditions conducive to credible and legitimate elections. Now is the time for the Myanmar Government to address these concerns in order to ensure that the political process serves the interest of all of the people of Myanmar, in a way that is unifying rather than divisive and that is broadly acceptable to the international community. In this regard, I expect that the Government will take the necessary steps consistent with its commitments to ensure that the elections are fully inclusive, participatory and transparent, and are prepared and conducted in accordance with international standards.

53. In addition to the urgent need to open up the political space for all political actors to participate freely in the forthcoming elections, there are equally important medium and long-term issues that require further resolve and commitment, first and foremost by the Government of Myanmar, in cooperation with and with the support of the international community. In this connection, moving from ceasefire agreements with a majority of armed ethnic groups to durable peace is essential for

the future stability of Myanmar. This requires the exercise by both sides of maximum flexibility in negotiations that must be responsive to their respective concerns and interests, including those on the future status of armed groups, addressing of local development needs and curtailment of criminal activities in border areas. Similarly, it is imperative for the Government and those armed ethnic groups still actively fighting to engage in substantive talks leading to the cessation of hostilities, particularly in Kayin and Kayah States in which ongoing reports of armed conflict and associated human rights abuses and humanitarian problems, including large-scale refugee movements, remain of concern to the United Nations. The Organization stands ready to assist Myanmar in addressing these challenges. Opening and broadening the political space is the best way to ensure that each group has a stake in durable peace and stability.

54. Equally important to the prospects of durable peace and democracy is the need to address the pressing humanitarian and socio-economic challenges facing the people of Myanmar. The unprecedented level of cooperation between Myanmar and the United Nations and ASEAN with the support of the donor community in response to Cyclone Nargis has demonstrated that humanitarian imperatives do not conflict with the principles of sovereignty and should never be held hostage to political considerations. While the international community must remain committed to providing humanitarian assistance, the Government has the responsibility to ensure that existing cooperation continues in the best possible conditions and that none of the population in need of assistance, wherever he or she may be, is denied humanitarian access.

55. Unlocking the nation's economic potential and harnessing Myanmar to the rapid advances taking place elsewhere in the region are also essential to overcoming prevalent levels of poverty, raising living standards, promoting social peace and paving the way for broader change. While I welcome the Government's efforts to achieve the Millennium Development Goals, more can and must be done to strengthen the capacity of civilian institutions of governance, including by investing in the country's human resources and enabling civil society and the private sector to participate more fully in the development of the country.

56. As I stressed publicly in my keynote address in Yangon, the engagement of the United Nations in Myanmar is informed by a shared commitment towards its people with the aim of enabling their country to find its place as a responsible and respected member of the international community. While Myanmar has a unique and complex history, the challenges it faces as a country in transition are neither exceptional nor insurmountable. Moreover, Myanmar is no exception to the consensus that there can be no development without peace; no durable peace without sustainable development; and neither peace nor development without democracy and respect for human rights. None of the challenges facing Myanmar today — political, humanitarian, development — can be addressed in isolation and failure to address them with equal attention could undermine the prospects for peace, democracy and development. For these reasons, Myanmar stands to benefit greatly from the wide-ranging experience of the United Nations, including in the areas of governance and peacebuilding. The more Myanmar engages and cooperates meaningfully with my good offices to that end, the more it affirms its sovereignty.

57. In this regard, I note that, throughout the reporting period, increased demands on my good offices were met through a capacity provided in part by extrabudgetary

contributions. I would like to take this opportunity to express my thanks to the European Commission for its financial contributions in support of my good offices. At this important juncture of Myanmar's transition and as part of the broad multidimensional nature of the good offices engagement, the General Assembly should provide adequate resources to the Office of my Special Adviser through 2010. As outlined in my forthcoming report on the financial requirements in respect of good offices missions, sustaining this capacity will be essential to support the effective implementation of the good offices mandate as entrusted to me.

58. My personal engagement in the implementation of the good offices mandate offers the clearest signal of the commitment of the United Nations to work in partnership with the Government and people of Myanmar to address issues that are of fundamental importance to the future of the country. In this regard, I welcome the clear and strong support expressed by the international community for the continuation of my good offices mission and am determined to continue my personal engagement and the work of my Special Adviser in pursuit of the good offices objectives, including in follow-up to the five-point agenda that I discussed with Myanmar's senior leadership. The political transition offers a unique opportunity for positive change and the international community, including the European Union, ASEAN and development actors, should send clear signals to the people of Myanmar that they are not alone and that the international community stands ready to invest in their future, including through ways to support longer-term efforts towards a more open social, political and economic environment and improvements in governance related to peace and economic development. I stand ready to work with all concerned and to mobilize the required support for addressing the full measure of challenges that Myanmar faces.

59. A process of national reconciliation and democratic transition rooted in respect for human rights, dialogue and mutual understanding offers the best prospect for overcoming the nation's twin legacy of political deadlock and armed conflict as a precondition for peace and development. While every stakeholder has a role to play and a responsibility to assume by remaining constructive in the interest of the nation, it is the primary obligation of the Government to live up to the commitments it has made to its people to ensure a genuine transition to democracy and to a peaceful, modern and developed nation. Failure to achieve broad buy-in from the wider population of Myanmar in the political and constitutional transition risks further exacerbating divisions and delaying the prospects of durable peace for all of its people. It is therefore, a time for Myanmar's leaders to make clear and fundamental choices. It is up to them to choose how to respond to the aspirations of their people and to the expectations and encouragement of the international community. I believe that this choice may determine the prospects for peace, democracy and prosperity for the coming generations.